



OFFICE OF THE SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

September 14, 1982

Executive Registry

82-59241

DDI- 745282

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MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE SECRETARY OF AGRICULTURE
THE SECRETARY OF COMMERCE
THE ATTORNEY GENERAL
THE DIRECTOR, OFFICE OF MANAGEMENT
AND BUDGET
CHAIRMAN, COUNCIL OF ECONOMIC ADVISORS
ASSISTANT TO THE PRESIDENT FOR
NATIONAL SECURITY AFFAIRS
ASSISTANT TO THE PRESIDENT FOR
POLICY DEVELOPMENT
UNITED STATES TRADE REPRESENTATIVE
DIRECTOR OF CENTRAL INTELLIGENCE

SUBJECT Senior Interdepartmental Group on
International Economic Policy (SIG-IEP)

Attached are comments prepared by the Office of the United States Trade Representative on the five discussion papers circulated by the Department of State for the SIG-IEP on pipeline sanctions. The State Department will circulate by the close of business today a summary of those papers for the SIG-IEP meeting, Thursday, September 16, 1982 at 4:00 PM in Room 305, Old Executive Office Building.

David E. Pickford
Executive Secretary

Attachment

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OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

September 14, 1982

MEMORANDUM TO: MARC LELAND
FROM : JOHN E. RAY
SUBJECT : COMMENTS ON STATE DISCUSSION PAPERS ON
PIPELINE SANCTIONS

We have several general comments:

-- These papers do not distinguish clearly between those objectives which would be reversable in case of improvement in the Polish situation and those objectives which would be permanent improvements in alliance relations with the Communist countries. We would obviously not be prepared to reverse the latter objectives even if the Polish situation be improved to our satisfaction.

-- At yesterday's meeting we detected a consensus that our primary objective should be to block the second strand of the pipeline. No where in these papers is this listed as an objective. We strongly urge that this objective be made explicit.

-- There is no discussion of Japan. It is highly likely that Japanese companies, with GOJ connivance, have or soon shall violate our sanctions. The Japanese want to be included in any talks with our European allies. We need a position.

Our specific comment deals with discussion paper number 5, "Reductions in U.S. Export Controls".

We should clearly distinguish between: (1) rescinding the "extraterritorial" aspects of our present policy -- e.g. going back to the situation which held before June, and (2) rescinding the "retroactive" aspects of this policy -- e.g. going back to the situation which held before December 30th.

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The Europeans, of course, want us to go back to the pre-December situation. However, it is the "extraterritorial" aspects of our policy which really cause them grief and which precipitated the present critical situation in the alliance. They are not happy with our December actions, but they were living with them until we extended them to European companies this June. It is this extension to the operations of companies in their territory which has led to French and British blocking orders, statements by chiefs of government, U.S. denial orders, and calls by the Europeans for Ministerial-level meetings.

A return to the pre-June situation would take the steam out of these European complaints. It would also leave us with a "reversible" action in case of improvement in the Polish situation, i.e., we could then go back to the pre-December situation.

Therefore, we propose that discussion paper 5 be revised to show two objectives:

- the lifting of the "extraterritorial" aspects of our sanctions policy with the understanding that the "retroactive" aspects would be lifted when and if the situation in Poland meets our conditions; and
- the lifting of the retroactive features of our sanctions policy.

Our objectives should be keyed to these positions. For example, non-reversible objectives (such as no second strand to the pipeline, restraints on export credits and improvements in COCOM) could be tied to lifting of our June sanctions and reversible ones (such as an embargo of future transfers of key oil and gas equipment and technology) to lifting of our December sanctions.

Discussion: The Europeans have indicated that they could live with a simple lifting of the extraterritorial features of our sanctions, although it would give them considerable grief.

This would mean that they could use U.S. equipment and technology in hand as of December 30th.

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It would allow the shipment of approximately 26 turbines built with U.S. rotors already on hand and the eventual shipment of the 40 odd turbines to be built in France with American technology without triggering U.S. denial orders. On the other hand, it would block or significantly delay production of the remaining turbines ordered by the Soviets.

Under these conditions, the pipeline could be built and operated but at considerably less than full capacity. There would be no spare turbines for use in the inevitable breakdowns. Even if the Europeans do not need the pipeline's full capacity now, it would render future expansion impossible or at least difficult.

This would reduce its potential as a source of foreign exchange for the Soviets. Its cost to the Soviets would not be substantially less.

The European companies' contracts must contain "force majeure" clauses. If the Europeans were prevented from shipping additional turbines to the Soviets by the refusal of the United States to supply the needed turbines, then the European companies could claim "force majeure" if the Russians tried to collect penalties. Their position in an arbitration court would be very strong.

If conditions in Poland improve, we would relax our pipeline sanctions. The remaining turbines could be then produced and the pipeline's capacity -- and its earning potential -- increased.

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